

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 07.02.2019

CORAM

THE HONOURABLE Mr.JUSTICE T.RAJA

W.P.No.25753 of 2009

A.Pius

... Petitioner

Vs

1.The Superintendent of Police,
Nilgiris District.

2.The Deputy Inspector General of Police,
Coimbatore Range,
Coimbatore.

3.The Director General of Police,
Chennai-4.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking for issuance of Writ of Certiorari to call for the records of respondents 1 to 3 in connection with the impugned order passed by them in P.R.No.59/1994 dated 16.04.1997, C.No.B2/8907/2008 dated 02.06.2009 and RC.No.118399/API(1)/ 2009 dated 06.10.2009 respectively and quash the same.

For Petitioner : Mr.K.Venkataramani,
Senior Counsel for Mr.M.Muthappan

For Respondents: Mr.K.Ravikumar, AGP

सत्यमेव जयते
O R D E R

This Writ Petition has been directed against the impugned orders dated 16.04.1997, 02.06.2009 and 06.10.2009 passed by the respondents 1 to 3 respectively against the petitioner, in and by which, the punishment of reduction in the time scale of pay by two stages for a period of two years without cumulative effect was confirmed for the proved charges under Rule 3(b) of Tamil Nadu Police Subordinate Service (Discipline and Appeal) Rules, 1955, viz., (i) Indisciplinary conduct in having demanded a sum of Rs.5,000/- and received Rs.2,000/- as illegal gratification from on Thilammal, Kilinjada Village on 31.05.1993 and (ii) Failure to register a case against the petitioners for keeping counterfeit currency on 30.05.1993 and 31.05.1993.

2.Mr.K.Venkataramani, learned Senior Counsel appearing for the petitioner submitted that when the petitioner was departmentally prosecuted for the aforementioned charges, on the side of the prosecution, 9 witnesses were examined and 15 exhibits were marked and on the side of the petitioner, 6 witnesses were examined and 11 exhibits were marked to prove his innocence. The disciplinary authority/1st respondent vide P.R.No.59/1994 dated 16.04.1997 held the charges against the petitioner as proved and awarded a punishment of reduction in the time scale of pay by two stages for a period of two years without cumulative effect. Aggrieved by the said punishment, the petitioner filed an Appeal Petition before the 2nd respondent. The Appellate Authority/2nd respondent, without considering all the points and pleas raised by the petitioner, rejected the same on 29.06.1997 vide C.No.AP.32/D2/97, without giving a speaking order. The said order was questioned before this Court. This Court, while considering the claim made by the petitioner that the statutory appeal filed by the petitioner was not duly considered by the Appellate Authority/2nd respondent, by order dated 19.09.2008 in W.P.No.31033 of 2006, set aside the order dated 29.06.1997 and remanded the matter to pass orders afresh. Pursuant thereto, the 2nd respondent again passed a non-speaking order on 02.06.2009, rejecting the appeal confirming the punishment. Against which, the petitioner preferred a Review Petition dated 22.07.2009 before the Director General of Police/3rd respondent, which was also came to be rejected on 06.10.2009. Therefore, the impugned orders are liable to be interfered with.

3.The learned Government Advocate appearing for the respondents submitted that considering the charges made against the petitioner and the material evidence, the 1st respondent imposed punishment on the petitioner. Since the appellate authorities/respondents 2 and 3 also confirmed the punishment, the same does not warrant interference by this Court.

4.The learned Senior Counsel submitted that the Disciplinary Authority and also the Appellate Authority have not considered the case of the petitioner, on the basis of the evidence produced by the petitioner before the Enquiry Officer.

5.This Court is unable to agree with the said submission, the reason being when the petitioner was departmentally prosecuted for the said charges in P.R.No.59/1994 under Rule 3 (b) of Tamil Nadu Police Subordinate Service (Discipline and Appeal) Rules, 1955, the Enquiry Officer has considered the deposition made by 8 witnesses along with 15 exhibits marked on the side of the prosecution and also the evidence placed by 6 witnesses and 11 exhibits marked by the petitioner and submitted the report. When the petitioner suffered punishment of

reduction in the time scale of pay by two stages for a period of two years without cumulative effect, he has gone before the Appellate Authority, who initially passed unreasoned order, after remand by this Court, has passed an order confirming the punishment. Challenging the same, the petitioner filed a review application before the Director General of Police, which also came to be rejected. Therefore, when the Disciplinary Authority, the Appellate Authority and also the Director General of Police, have considered the case of the petitioner and arrived at a finding, this Court, sitting under Article 226 of the Constitution of India, cannot interfere with the finding of facts arrived at by all the authorities.

In view of the foregoing reasons, the Writ Petition fails and is accordingly dismissed. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1.The Superintendent of Police,
Nilgiris District.

2.The Deputy Inspector General of Police,
Coimbatore Range,
Coimbatore.

3.The Director General of Police,
Chennai-4.

+1 cc to Mr.M.Muthappan, Advocate, S.R.No.11031

+1 cc to the Government Pleader, S.R.No.11911

SS(CO)
SSM(13/03/2019).

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